**THE HON'BLE SRI JUSTICE V.ESWARAIAH**

**W.P.No.17001 of 2007**

Between:

N.Penchala Narasaiah and others. … Petitioners

and

Government of Andhra Pradesh and others. … Respondents

**ORDER:**

The petitioners, who are six in number, submit that each of them occupied land to an extent of 30 Ankanams bearing plot Nos.9, 10 and 11 respectively situated at Vandluru Colony, Kothuru Gram Panchayat, Nellore Rural Mandal, Nellore District and since 1990, they are in continuous possession and enjoyment of the said plots and they also raised small houses in the said plots. The water and electricity connections were also obtained. They belong to Scheduled Caste. They are landless poor and are living below the poverty line and therefore, they are entitled for house site pattas in accordance with the policy guidelines issued from time to time. It is stated that each of the petitioners made a representation, dated 06-04-2007, before the District Collector, Nellore-2nd respondent requesting to assign the said lands in their favour. But, the said representations have not at all been considered and disposed of so far. As the petitioners have been living continuously in the said houses with ration card, electricity and water connections, there is no justification on the part of the respondents in interfering with the peaceful possession and enjoyment of the lands in question and in not assigning the said lands in their favour.

A counter has been filed on behalf of respondents 2 and 3 stating that Khandaleru Reservoir Project was constructed in the year 1995 and several families lost their houses in the agricultural lands and, therefore for providing house sites at Nellore Rehabilitation Centre, a colony called Vandluru Rehabilitation Colony, which is situated at Kothuru Gram Panchayat area, certain lands were selected to provide house sites to 264 persons and the

same were allotted to all of them. The said Colony is exclusively for the land oustees and no other person is entitled to occupy the said land. The petitioners are not land oustees, but they only encroached plot Nos.9, 10 and 11, which were allotted to the land oustees namely Sri Shaik Masoom, S/o.Masthan Saheb; Sri Advanapu Penchala Ramaiah, S/o.Ramaiah and Sri Polamreddy Venkata Krishna Reddy, S/o.Atchi Reddy. Therefore, the petitioners are not entitled to continue in possession of the said plots.

I am of the opinion that when the petitioners are in continuous possession and enjoyment of the plots in question since 1990 onwards, under the guise of providing house sites to the land oustees in the year 1995, it is not just and proper for the respondents to allot the plots in question in favour of other persons.

The learned counsel appearing for the petitioners further submits that there is no justification on the part of the 2nd respondent in not regularizing their encroachment and in not assigning the said land in their favour, pursuant to the representations of the petitioners, dated 06-04-2007. It is stated that as per the policy guidelines issued by the Government, the petitioners claim have to be considered on the preferential basis, than the land oustees, as the petitioners belong to Scheduled Caste and they are living below the poverty line. In support of her contention, the learned counsel appearing for the petitioners relied upon a decision of the Supreme Court in ***CHARAN SINGH Vs. STATE OF PUNJAB AND OTHERS***[1], wherein it is held thus:

> "…. It is now settled policy of the Government as enjoined under Article 46 of the Constitution and the Directive Principles, particularly Articles 38 and 39(b) and the Preamble of the Constitution that economic and social justice requires to be done to the weaker

sections of the Society, in particular to the Scheduled Castes and Scheduled Tribes and to prevent them from social injustice and prevention of all forms of exploitation. In the light of that constitutional objective of economic empowerment, the Government had rightly taken the policy to assign the lease to the either to a Cooperative Society composed of the Scheduled Castes or individual members of the Scheduled Tribes members, as the case may be, in accordance with their policy then in vogue at the rate of Rs.20/- per acre or 90 times the land revenue, whichever is less. Under these circumstances, the appellants having been inducted into possession reclaimed the land and remained in possession after the expiry of the lease, the Government is required to regularize their possession and assign the lands in their possession in accordance with its policy. The appellants, therefore, are directed to make necessary application within four weeks from today to the competent authority and the authorities are directed to regularize their possession imposing necessary conditions for their continuance in possession and enjoyment of the same in the light of the constitutional objective of rendering them socio economic justice, putting restrictions on sub-letting or selling; all the relevant conditions in that behalf may be imposed so that they remain in possession and enjoy the same to improve their social and economic status as enjoined under the Constitution. The authorities are also directed to dispose of the applications within a period of two months from the date of the receipt of the same. The appellants shall remain in possession until the regularization is done and shall enjoy the lands without any sub-letting or alienation thereof….."

Having regard to the facts and circumstances of the case, the 2nd respondent is directed to consider and dispose of the representations of the petitioners, dated 06-04-2007, keeping in view the aforesaid observations made by the Supreme Court in ***CHARAN SINGH's*** Case (supra). Pending disposal of the representations, the petitioners shall not be dispossessed from the lands in question.

Accordingly, the writ petition is disposed of. There shall be no order

as to costs.

13-09-2007

Prv

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[1] 1997 (1) Supreme 27